

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARK SEVERNS,

Plaintiff

Case No. 3:20-cv-00407-MMD-WGC

ORDER

v.

NEVADA, STATE OF, et al.,

Defendants

I. DISCUSSION

Plaintiff, who is an inmate in the custody of the Nevada Department of Corrections (“NDOC”), has filed a civil rights complaint. (ECF No. 1-1.) It appears that the complaint was prepared by Kentrell Welch, another inmate, but signed by Plaintiff. (*Id.* at 12.) After the complaint was filed, Plaintiff filed a notice of change of address. (ECF No. 3.) Welch then filed a separate change of address on Plaintiff’s behalf and requested that future filings in this case be sent to him, rather than to Plaintiff. (ECF Nos.5, 5-1 at 1.) Plaintiff did not sign either of those documents. (*Id.*)

Welch has also filed three declarations on Plaintiff’s behalf. (ECF Nos. 6, 7, 8.) But it does not appear that Plaintiff has signed any of these declarations. (*Id.*) Welch signed the declaration in ECF No. 6 as the attorney for Plaintiff. (ECF No. 6 at 5.) Welch is not a licensed attorney, and, therefore, he cannot represent Plaintiff. Plaintiff is proceeding without the representation of counsel, and, under Rule 11 of the Federal Rules of Civil Procedure, a plaintiff who is not represented by counsel is required to sign any pleadings. Fed. R. Civ. P. 11(a). Because Plaintiff did not sign these documents submitted by Welch, the Court must strike them from the record unless the omission is corrected. *Id.*

The purpose of the declarations submitted by Kentrell Welch is not clear, but it appears that Welch is attempting to add additional allegations to the complaint. As such, the Court notes that it will not piecemeal Plaintiff’s complaint together from multiple filings.

1 Plaintiff's operative complaint must contain all claims, defendants, and factual allegations
2 that Plaintiff wishes to pursue in this lawsuit. The Court grants Plaintiff leave to file a fully
3 complete first amended complaint within 30 days. If Plaintiff does not file a fully complete
4 amended complaint, the court will only screen his initial complaint (ECF No. 1-1) and will
5 not consider any allegations in Plaintiff's additional filings.

6 If Plaintiff chooses to file a first amended complaint, he is advised that a first
7 amended complaint supersedes (replaces) the original complaint, and, thus, the first
8 amended complaint must be complete in itself. *See Hal Roach Studios, Inc. v. Richard*
9 *Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that "[t]he fact that a party
10 was named in the original complaint is irrelevant; an amended pleading supersedes the
11 original"); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding
12 that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims
13 in a subsequent amended complaint to preserve them for appeal). Plaintiff's first
14 amended complaint must contain all claims, defendants, and factual allegations that
15 Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must file the first amended
16 complaint on this Court's approved prisoner civil rights form, and it must be entitled "First
17 Amended Complaint."

18 **II. CONCLUSION**

19 For the foregoing reasons, IT IS ORDERED that, the Court will strike any filings
20 from Plaintiff that are not personally signed by him.

21 IT IS FURTHER ORDERED that Plaintiff is granted leave to file a single complete
22 first amended complaint. If Plaintiff chooses to file a first amended complaint, Plaintiff will
23 file the first amended complaint within 30 days from the date of entry of this order.

24 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
25 approved form for filing a § 1983 complaint, instructions for the same, and a copy of his
26 initial complaint, as well as declarations by Kentrell Welch (ECF Nos. 1-1, 6, 7, 8). If
27 Plaintiff chooses to file a first amended complaint, he must use the approved form and he
28 will write the words "First Amended" above the words "Civil Rights Complaint" in the

1 caption.

2 IT IS FURTHER ORDERED that, if Plaintiff does not timely file a first amended
3 complaint, the Court will screen the original complaint (ECF No. 1-1) only.

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5 DATED THIS 5th day of April 2021.

6 William G. Cobb
7 UNITED STATES MAGISTRATE JUDGE
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